



Questions and Answers

USCIS Field Operations– American Immigration Lawyers Association (AILA) Meeting April 11, 2013

Overview

On April 11, 2013, USCIS Field Operations Directorate (FOD) hosted an engagement with AILA representatives. USCIS FOD discussed issues related to waivers of inadmissibility, Form I-130 petitions, the security screening process, as well as other issues. The information below provides a review of the questions solicited by AILA and the responses provided by USCIS.

New Security Screening Process at USCIS Field Offices

Question 1: AILA has been informed that USCIS field offices will be implementing an additional security screening process for people coming to the field office for an appointment (I-485 interview, N-400 interview, N-400 oath ceremony, etc.). We have heard that these individuals will need to essentially complete biometrics processing (photographs and mini-fingerprinting) before they can proceed with the appointment, though logistics of this process may vary by USCIS field office.

- a. Please confirm whether USCIS intends to implement this new process. If this process will be implemented, please describe what it will entail and when it will begin.

Response: Yes, USCIS does intend to implement an identity verification process at all USCIS Field Offices for applicants appearing for an interview. This process will allow officers to verify that the individual who appeared for biometrics collection at the Application Support Center (ASC) is the same individual named on the application or petition and who appears for the interview. A date for implementation is tentatively scheduled for May 6, 2013.

- b. Will a USCIS officer or a GSA officer administer the security screening process?

Response: A USCIS officer will administer the biometrics collection.

- c. Will USCIS provide information about this additional security processing to applicants in the appointment notice or through other means? If available, would USCIS provide AILA with a copy of the instructions or announcement?

Response: USCIS published two notices in the Federal Register. The first notice was issued on May 13, 2011 with a 60-day comment period and the second notice was published in the Federal Register on July 27, 2011 with a 30-day comment period. Copies of these notices can be found

on our website, www.uscis.gov, under the “Laws” tab and then by selecting “Federal Register Notices.”

USCIS has also developed a communications plan to notify applicants of these new procedures. USCIS’s Public Engagement Division will share the announcements with AILA and other stakeholders.

- d. How much time will it take to complete the new security screening process? Will individuals be advised to appear at the USCIS office in advance of the appointment (45 minutes, rather than 30 minutes) so that there is adequate time to complete the processing?

Response: The biometrics collection should take less than five minutes to complete and applicants should not need to arrive any earlier for an appointment than they currently do.

Security Procedures at USCIS Field Offices

Question 2: It is AILA’s understanding that security at USCIS Field Offices nationwide is handled by contractors of the General Services Administration (GSA). Security procedures vary from field office to field office depending on whether other governmental agencies are located in the same building. While we understand and respect the need to keep USCIS field offices safe, AILA members report what seem to be cumbersome and unnecessary security procedures at some offices, such as required shoe removal in the security screening area. We would like to engage USCIS Field Operations in a conversation about the implementation of reasonable security measures at USCIS field offices.

- a. How does USCIS Field Operations oversee and manage GSA security measures and procedures at USCIS offices?

Response: The Federal Protective Service (FPS), not GSA, oversees and manages the security measures and procedures at buildings in which USCIS has an office. USCIS is required to adhere to the standards and requirements established by FPS.

- b. How does the GSA determine what security measures are reasonable for a given USCIS field office? Does USCIS Field Operations have input in establishing reasonable security measures at USCIS field offices?

Response: USCIS, in conjunction with the USCIS Office of Security and Integrity, works with the FPS to minimize impacts to the visiting public with screening procedures while balancing the need for security procedures commensurate with the identified risks. Questions regarding the security assessment of a building should be directed to FPS.

- c. Is there a procedure or mechanism for AILA attorneys and/or the public to provide feedback on cumbersome or overly intrusive security measures at USCIS field offices? To whom should feedback be addressed?

Response: Feedback on screening procedures at federal facilities can be directed to the respective FPS District or Regional Commander.

- d. Many AILA attorneys regularly appear at the same USCIS field office. Would USCIS consider implementing a procedure whereby attorneys could be “pre-screened” and cleared to enter a particular USCIS field office?

Response: Federal employees and those contracted to perform a given service within a federal facility are authorized to enter a federal facility without being subject to the security screening process. All others are subject to the security screening process in accordance with federal security policies.

Smartphones, Laptops, and Tablets

Question 3: In this day and age, the use of electronic devices (smartphones, laptops, and tablets) is not only routine, but also increasingly essential to the practice of law. In recognition of this new reality, many federal courts across the U.S. now allow electronic devices into the courthouse and into the courtroom and permit attorneys to use these devices for reference, research, calendaring, and communication purposes before and even during proceedings. Attorneys in court are expected to ensure that the use of such devices does not interrupt the ongoing proceedings.

Attorneys attending interviews at USCIS offices are faced with the same issues as attorneys appearing in federal court. However, AILA members report that GSA security measures at some USCIS field offices are so strict that attorneys are not allowed to bring these devices into the building or use them during an interview. Such restrictions are very problematic for attorneys who rely on such devices to communicate with clients and their offices and access critical case-related information.

- a. Would USCIS Field Operations in conjunction with GSA implement a nationwide policy allowing the use of electronic devices at all USCIS offices to bring USCIS offices in-line with standard nationwide federal court practice?

Response: Recording devices are prohibited in USCIS facilities with the exception of recording and photographing naturalization ceremonies.

Form I-130 Petitions

Question 4: USCIS announced that starting on August 15, 2012, all stand-alone immediate relative (IR) I-130 Petitions for Alien Relative filed with USCIS service centers would be [transferred to the USCIS field office with jurisdiction](#) over the petitioner's place of residence for adjudication.¹

- a. Please provide a progress update on the adjudication of I-130s at USCIS field offices.

Response: Approximately half of the Form I-130s that have been transferred to the field have been adjudicated.

- b. What steps are being taken to ensure that USCIS field offices have the necessary resources to adjudicate these petitions in a timely manner?

Response: Offices within USCIS are accustomed to accommodating shifting workloads. Offices are working to ensure the Form I-130s, along with other applications and petitions, are adjudicated in a timely manner.

- c. What is the expected processing time for I-130 petitions transferred to the USCIS field offices for adjudication? Will these processing times be published?

¹ *USCIS Workload Transfer from Service Centers to Field Operations*, AILA Doc. No. 12100148, <http://www.aila.org/content/default.aspx?docid=41550>

Response: The expected processing time is approximately six months nationwide, though processing times at individual offices may vary. We currently have no plans to publish the processing times.

- d. Are there plans to transfer other forms to local offices for adjudication? If so, which forms and what are those plans?

Response: There are no immediate plans to transfer additional forms to the field.

Question 5: At our [October 9, 2012, meeting with USCIS HQ](#), AILA raised the issue of delays in transferring approved I-130 petitions from USCIS field offices to the National Visa Center (NVC) for individuals in proceedings. In response to reports that I-130 approvals were sometimes “held” by USCIS until ICE released the file, USCIS explained the process as follows: When a service center receives a marriage-based I-130 petition filed on behalf of a beneficiary in removal proceedings, the service center will relocate the petition to the district office if INA §204(g) applies.² USCIS confirmed that *service centers* do not “hold” approved petitions until ICE takes action. However, AILA members have reported significant delays (up to six months) in transferring approved I-130 petitions from USCIS *field offices* to the NVC.

As adjudicators of I-130 petitions for individuals in removal proceedings where INA §204(g) applies (as well as all stand-alone immediate relative I-130 petitions transferred from the service centers),³ USCIS field offices will play a critical role in the new provisional waiver process.⁴ Beneficiaries who are in removal proceedings are eligible to apply for a provisional waiver if proceedings are administratively closed or terminated.⁵ For these I-130 beneficiaries, in order to move forward with a provisional waiver application, the approved petition must be forwarded to the NVC so that the immigrant visa fee can be paid. At the same time, the beneficiary must coordinate with ICE counsel to seek administrative closure (or termination) upon demonstrating *prima facie* eligibility for a provisional waiver. This process raises further concerns about the timely transfer of approved I-130 petitions from USCIS field offices to the NVC for individuals in removal proceedings.

- a. A uniform or “national” procedure for transferring approved I-130s to the NVC for individuals in proceedings (including proceedings that are administratively closed) will ensure that district offices move quickly, thereby facilitating the provisional waiver application process. Is there a national procedure for the transfer of I-130s or does each field office employ its own procedure? Please describe the national procedure if one exists.

² INA §204(g), Restriction on petitions based on marriages entered while in exclusion or deportation proceedings, provides, “... a petition may not be approved to grant an alien immediate relative status or preference status by reason of a marriage which was entered into during the period described in 245(e)(2), until the alien has resided outside the United States for a 2-year period beginning after the date of the marriage.”

³ *USCIS Workload Transfer from Service Centers to Field Operations*, AILA Doc. No. 12100148, <http://www.aila.org/content/default.aspx?docid=41550>.

⁴ 78 FR 536, 1/3/13, *USCIS Notice on Provisional Unlawful Presence Waivers*, AILA Doc. No. 13010240, <http://www.aila.org/content/default.aspx?docid=42642>.

⁵ Under 8 CFR §212.7(e)(4)(v), an alien is ineligible for a provisional waiver if he or she is in removal proceedings, unless the removal proceedings are administratively closed and have not been recalendared at the time of filing the provisional waiver application.

Response: USCIS will transfer the Form I-130s to the NVC if the petitioner requested consular processing. The issue arises when proceedings are completed and the file is returned to the National Records Center (NRC), instead of the Field Office. In these situations, the attorney or applicant should notify the Field Office that proceedings have been terminated or administratively closed, and that there is an approved Form I-130 and a request for consular processing. USCIS will request the file from the NRC and forward the petition to the NVC. If consular processing was not initially requested, the applicant must file Form I-824, Application for Action on an Approved Application or Petition.

- b. If there is no national procedure, would USCIS Field Operations consider implementing one to ensure immediate transfer of I-130 approvals?

Response: See response to 5a.

- c. Could these same procedures be used for non-provisional waiver cases where the beneficiary/respondent anticipates requesting voluntary departure in order to attend a visa interview?

Response: After completion of proceedings an attorney or applicant may request the Field Office forward the Form I-130 to the NVC if the original petition had requested consular processing. If consular processing was not requested, the applicant must file Form I-824, Application for Action on an Approved Application or Petition.

- d. Some AILA members report that USCIS field offices will not transfer the approved I-130 until the court case is completed because they do not want to separate the I-130 petition from the rest of the “A file.” To what extent does the transfer of an I-130 approval for individuals in proceedings require coordination with ICE counsel? Does USCIS have to be in possession of the complete “A file” before transferring the approval?

Response: USCIS may not be able to transfer the Form I-130 to the NVC while proceedings are ongoing. It is not a matter of separating the Form I-130 from the A file, but rather the petition may be requested by the ICE attorneys and/or the Immigration Judge.

- e. What can AILA attorneys do to help facilitate the timely adjudication of I-130 petitions by the field office and transfer to the NVC? If there is a delay in processing or transferring the case, how can attorneys check on the status of a case?

Response: Attorneys can inquire about a case through established avenues such as contacting the National Customer Service Center or submitting a service request. If an attorney or applicant believes a case is unduly delayed, please bring it to the attention of field leadership.

Interviews at USCIS District and Field Offices

Question 6: The I-601A provisional waiver regulations state that while most provisional waiver applications will be adjudicated by the service centers, USCIS reserves the right to transfer the case to a USCIS field office for an interview.⁶

⁶ *Id.*

- a. Please describe the circumstances that will trigger an I-601A provisional waiver to be transferred to a USCIS field office for an interview?

Response: These cases have not been transferred to the field for an interview.

Question 7: USCIS has indicated that a small percentage of DACA cases are transferred to USCIS Field Offices for interview as a quality control mechanism and/or to address potential eligibility issues.

- a. Approximately how many DACA cases have been transferred to USCIS field offices for interviews? In general, why are these cases referred for interview?

Response: USCIS is receiving a significant number of questions on a wide variety of issues relating to deferred action for childhood arrivals. To ensure that potential requestors and stakeholders receive access to all USCIS updates and information, we will provide updates for deferred action for childhood arrivals via our website. Regrettably, we are unable to provide an individual response to this question. Please check <http://www.uscis.gov/childhoodarrivals> for updates and information. To receive email notices when web updates are made click the “Get Updates for This Page” link on the lower right side page.

Question 8: While the majority of USCIS field offices waive the interview requirement for a petitioner or beneficiary who is incarcerated or coordinate the transfer of the incarcerated party to the USCIS field office for the interview, AILA members report that some USCIS field offices refuse to adjudicate I-130 petitions when either the petitioner or the beneficiary is incarcerated. Refusing to adjudicate or denying an I-130 petition solely because one party is incarcerated and cannot appear for an interview is inappropriate and denies the parties due process.

- a. Is there a national procedure for handling cases in which one party is incarcerated and unable to appear for an interview? If so, what is the procedure? If not, would USCIS Field Operations consider adopting a national policy of waiving the interview requirement for the incarcerated party, similar to that which the majority of USCIS field offices have adopted?

Response: USCIS does not have a national procedure for handling cases in which one party is incarcerated. Currently, these are handled on a case-by-case basis. Factors such as whether it is the petitioner or beneficiary that is incarcerated and the projected length of incarceration are considered in determining how to proceed with the adjudication of the case. Field Operations has brought this issue to the attention of the Office of Policy and Strategy.

Question 9: During the AILA USCIS Field Operations meetings on [March 21, 2012](#) and [October 4, 2012](#), the issue of USCIS Field Operations policy regarding the recording of interviews was discussed.⁷ At the October 4, 2012 meeting, USCIS Field Operations stated that guidance on the recording of interviews was undergoing an internal review process. AILA was pleased to see a brief statement that offices should be

⁷ *AILA/USCIS Field Operations Liaison Q&As (3/21/12)*, AILA Doc. No. 12050847, <http://www.aila.org/content/default.aspx?docid=39522>; *AILA/USCIS Field Ops Liaison Q&As (10/4/12)*, AILA Doc. No. 12100546, <http://www.aila.org/content/default.aspx?docid=41633>

equipped with video or audio taping devices and that if such equipment was not available, arrangements should be made to record difficult cases in the [Policy Memorandum of May 23, 2012](#).⁸

- a. What is the current status of the guidance on the recording of interviews?

Response: USCIS is currently reviewing when interviews should be recorded, so no guidance has been issued.

- b. At our October 4, 2012 meeting, USCIS stated that it was engaging in internal discussions to determine whether all offices will have the capacity to record interviews. What is the status of these discussions and have any decisions been made regarding recording capacity at individual offices or nationwide?

Response: Discussions are still ongoing and no decisions have been made regarding recording interviews at Field Offices. Not all offices currently have the capability to record all interviews.

- c. Some AILA members report that interviews have been recorded where the issue of fraud is a concern such as a “Stokes” interview, an I-751 interview, or if the case is the subject of federal litigation. Other members report that all interviews appear to be recorded, and some state that interviews have been recorded for no apparent or articulated reason. What are the general principles which determine the recording of an interview?

Response: The reasons vary by office and case.

Question 10: It is not uncommon for USCIS field offices to schedule back-to-back or overlapping interviews for a single attorney representing two different clients. Where appointments are back-to-back, the first interview sometimes runs longer than expected, and the second client is called for interview while the attorney is still with the first client. This problem is further complicated by the fact that attorneys are not always allowed to use technology during interviews (phone, tablets, etc.), and may be unable to notify a client of an unforeseen delay. (*See* Question 3).

AILA members report that while many field offices are willing to work with attorneys to resolve these situations, problems persist at other field offices. As noted in the *Adjudicator’s Field Manual*, Chapter 12.4, “the person involved has the right be represented, at no expense to the government, by an attorney or representative, as defined in 8 CFR §292.1(a).”

- a. Has USCIS Field Operations provided the field offices with any guidance on how to work with attorneys who are scheduled for overlapping interviews to make sure that the second interview does not begin without the attorney present? If not, would you consider providing such guidance?”

Response: USCIS does not necessarily know if an attorney is scheduled for more than one appointment at the same time (see response to question 10b), therefore, if an attorney is scheduled for overlapping appointments, the attorney should follow the instructions on the appointment notice to request that one of the interviews be rescheduled. A rescheduling

⁸ USCIS Final Memo on the Role of Private Attorneys, AILA Doc. No. 12052940, <http://www.aila.org/content/default.aspx?docid=39818>

request may also be made by contacting the National Customer Service Center at 1-800-375-5283.

- b. We understand that scheduling is a complex exercise. We also realize that not every G-28 attorney appears at an interview and sometimes a client retains different counsel at the last minute. However, is there a way to check and account for G-28s from the same firm in an effort to ensure that interviews are scheduled (for example) at least 60 minutes apart?

Response: USCIS does not have the capabilities to check to see if an attorney is already scheduled for an appointment with another client.

Lengthy FDNS Investigations

Question 11: A recent informal survey of AILA attorneys indicates that USCIS petitions/applications referred to FDNS for investigation can be delayed by as little as several months to as long as five or more years without any status update or explanation for the delay communicated to the attorney or applicant.

8 CFR §103.2(a)(18) authorizes USCIS District Directors to withhold adjudication of a visa petition or other application if an investigation has been undertaken regarding the applicant's eligibility for the benefit requested. The District Director may also determine that disclosure of the ongoing investigation to the applicant or the applicant's attorney would prejudice the investigation. If the investigation has not been completed within one year of its inception, the District Director must review the case and determine if it is appropriate to withhold adjudication for an additional six months. The case is then reviewed by the District Director every six months until two years have passed since the inception of the investigation. If the investigation is still ongoing after two years, the case is referred to the Regional Commissioner, who can authorize withholding of adjudication for another six months. After this six month period, the Associate Commissioner of Examinations and the Associate Commissioner of Enforcement must concur and determine that it is necessary to continue withholding adjudication pending completion of the investigation for another six months. From this point forward, the Associate Commissioner of Examinations and the Associate Commissioner of Enforcement must review the case every six months and reauthorize withholding of adjudication.

- a. What criteria are used by USCIS officials to determine whether it is appropriate to continue to withhold adjudication of a case so that an investigation can be completed? What criteria are used to determine that notifying the applicant or the applicant's attorney of the investigation and withholding of adjudication would prejudice the investigation?

Response: Delays in adjudication may or may not fall within the parameters of 8 C.F.R. §103.2(b)(18). Moreover, "ongoing investigations" are those conducted by not only USCIS but also those investigations conducted by other law enforcement agencies. Whether a case falls within the parameters of 8 C.F.R. §103.2(b)(18) and should continue to be withheld from adjudication pursuant to this regulation is determined on a case-by-case basis. The only set regulatory criteria is that there is some type of ongoing investigation which may affect the alien's eligibility for the immigration benefit being sought and that the "disclosure of information to the applicant or petitioner in connection with the adjudication of the benefit request would prejudice the ongoing investigation." By virtue of the non-disclosure requirement of 8 C.F.R. §103.2(b)(18) USCIS cannot notify the applicant or petitioner (or his/her attorney) that the delay in adjudication is based on 8 C.F.R. §103.2(b)(18). The mere notification of withholding of adjudication under 8 C.F.R. §103.2(b)(18) would in fact be a disclosure of information that would prejudice an ongoing investigation.

Additionally, DHS has issued policy guidance that requires USCIS to protect the knowledge of (including the mere fact of an investigation regardless of whether the investigating agency is not disclosed) an open or closed investigation. Generally speaking, investigations are “For Official Use Only – Law Enforcement Sensitive.” USCIS is required in accordance with DHS Management Directive 11042.1, Safeguarding Sensitive but Unclassified (FOUO) Information, to honor the FOUO-designated status by the other agency.

- b. Please verify that decisions to withhold adjudication while an investigation is ongoing are memorialized in writing and are part of the record of proceeding.

Response: Although a written memorialization of the withholding of adjudication pursuant to 8 C.F.R. §103.2(b)(18) is not required under the regulation, USCIS does in fact keep a record of such in order to ensure compliance with the mandatory review requirements of the regulation. Information relating to records produced pursuant to 8 C.F.R. §103.2(b)(18) contains “information confidentially furnished” and deemed to be law enforcement sensitive. Thus, such documents are protected from disclosure. Any records created pursuant to USCIS’s compliance with 8 C.F.R. §103.2(b)(18) are therefore not part of the record of proceedings and are considered restricted. For more information regarding the exclusion of restricted material from a Record of Proceeding, AILA and any other interested party may view a copy of the Adjudicator’s Field Manual, Chapter 10.2. at: <http://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-1067/0-0-0-1136.html>.

- c. While it is understood that the status of an FDNS investigation may not be shared with the attorney or applicant as to any specific case, is there anything an attorney, petitioner, or applicant can do when a case that has been pending for a long period of time (one year or more) with no indication that resolution is imminent?

Response: Attorneys are welcome to inquire with the Field Office leadership regarding the case, but as stated above, USCIS may not be able to respond with any information regarding the case until the investigation is completed.

Biometrics Scheduling

Question 12: At the last USCIS Field Operations [liaison meeting on October 4, 2012](#), AILA raised several questions pertaining to biometrics processing for individuals in proceedings.⁹ USCIS responded that these questions are best directed to Service Center Operations, as Field Operations are not responsible for scheduling biometrics. AILA has forwarded these questions to the appropriate Service Center committees. Nevertheless, problems persist, especially for non-citizens in removal proceedings whose biometrics have expired after 15 months but who have yet to have the final EOIR hearing.

In response to an informal national survey, many AILA members report that they have been able to resolve in-proceedings biometrics issues and request biometrics appointments by contacting USCIS district offices. Specific methods vary by jurisdiction, but often include using InfoPass (with or without some documentation from ICE) or contacting the local Application Support Center (ASC) directly. For example, the USCIS Chicago Field Office has produced [helpful guidance](#) describing how non-citizens

⁹ AILA/USCIS Field Operations Liaison Q&As (10/4/12), Q 8a-8c, AILA Doc. No. 12100546, <http://www.aila.org/content/default.aspx?docid=41633>

applying for benefits in proceedings should renew their biometrics after initial processing.¹⁰ This process includes calling USCIS before the individual hearing and using the InfoPass appointment process.

In addition, the USCIS Denver Field Office has coordinated with Denver ICE and the local ASC, to establish a procedure whereby Denver ICE issues biometrics appointment letters for respondents in removal proceedings upon request by the attorney of record. Denver USCIS is no longer involved in the process and respondents in removal proceedings do not have to schedule an InfoPass appointment to obtain new biometrics.

- a. Would USCIS Field Operations consider encouraging all USCIS field offices to follow the procedures established in Chicago or Denver?

Response: Field Operations is reviewing biometrics procedures and will discuss the matter with the Enterprise Services Directorate which oversees the ASCs.

Professionalism at USCIS District Offices

Question 13: Much effort has been invested by USCIS in developing the newly published [Chapters 12 and 15 of the USCIS Adjudicators Field Manual](#) (AFM).¹¹ Along with Chapter 2 of the AFM, these chapters outline USCIS customer service policies and the role of attorneys during an interview. In an informal survey of AILA members, many expressed their opinion that the professional treatment of attorneys at USCIS interviews has improved since the publication of these new chapters. However, others indicated that there has been no improvement in the treatment of attorneys or customers at USCIS interviews.

- a. Would USCIS Field Operations consider developing and implementing a nationwide process to assess the attorney and customer experience at USCIS field offices, including interviews?

Response: At this time USCIS has no plans to implement a nationwide process to assess the attorney and customer experience. Concerns about a particular office should be raised with that office or to the district or regional levels. If there continues to be an issue, please notify headquarters. USCIS is committed to serving the public and our customers in a fair and equal manner.

- b. Please describe the training or other processes that have taken place or are planned, which assess compliance with the new guidance on the role of attorneys at the field office level.

Response: When Chapters 12 and 15 of the AFM were revised, Field Operations provided briefings to the field regarding the content of those chapters. Conference calls were also held to answer any questions regarding the new guidance.

- c. Please describe the instructions that have been provided to USCIS field offices with regard to the implementation of a process to handle attorney or customer complaints related to professionalism at USCIS field offices.

¹⁰ *Chicago Chapter – USCIS Chicago Field Office Minutes (12/4/12)*, AILA Doc. No. 12121270, <http://www.aila.org/content/default.aspx?docid=42457>

¹¹ *USCIS Final Memo on the Role of Private Attorneys*, AILA Doc. No. 12052940, <http://www.aila.org/content/default.aspx?docid=39818>

Response: Complaints about professionalism at USCIS Field Offices, whether from an attorney or a *pro se* applicant are taken very seriously and Field Offices should respond to complaints promptly. If there are instances where a complaint was not handled appropriately, please bring them to our attention. Formal guidance about how to address complaints will also be incorporated into the Customer Service section of the Policy Manual.

Communication with Field Offices

Question 14: Have there been any changes to the Field Operations organizational chart, or the list of District Directors and Regional Directors and/or their contact information, as provided at our October 4, 2012 meeting? If so, please provide the updated information and/or organizational chart.

Response: Please see attached for an updated list of field, district, and regional contacts. There have been no changes to the organizational structure of the Field Operations Directorate.

I-551 Stamps for I-751 Petitioners

Question 15: It has been longstanding USCIS policy to provide I-551 stamps as evidence of continuing lawful permanent resident status for individuals who have pending I-751 petitions and for those whose I-751 petitions have been denied and removal proceedings have been initiated.¹² At our October 2011 meeting, USCIS addressed the issue of I-551 stamps for family-based conditional residents as follows:

In the case of a Form I-751, the regulations at 8 CFR 216.4(a)(1) state that, “Upon receipt of a properly filed Form I-751, the alien’s conditional permanent resident status *shall* be extended automatically, if necessary, until such time as the director has adjudicated the petition.” Thus, any conditional resident who has properly filed a Form I-751 remains a conditional resident until a decision is made on his or her Form I-751. Such conditional resident is *eligible* to receive evidence of his or her conditional resident status.¹³

AILA members report that some field offices operate under the assumption that they have discretion to determine who is and who is not “eligible” for an I-551 stamp and refuse to issue stamps in certain cases. However, given that 8 CFR §216.4(a)(1) states that conditional resident status “shall be extended automatically” upon receipt of a properly filed Form I-751, proof of conditional resident status in the form of an I-551 stamp should be issued automatically upon request, until a decision has been made on the I-751 petition.

- a. Please confirm that USCIS Field Offices “shall” provide I-551 stamps for individuals with pending I-751 petitions, including those whose I-751 petitions have been denied and removal proceedings have been initiated.

Response: The regulations indicate that an individual’s conditional resident status shall be extended automatically; however, it does not indicate that such evidence be provided in the form of a temporary I-551 stamp. Upon filing Form I-751, the conditional resident is

¹² See 4/10/03 memo from Bill Yates (AILA InfoNet Doc: 03050643) and AILA/USCIS Field Operations Liaison minutes of 1/7/2011 (AILA InfoNet Doc: 11021031) and recent SCOPS Liaison minutes (AILA InfoNet Doc No. 12011061, 1/10/12).

¹³ AILA/USCIS Field Operations Liaison Q&As (10/25/11), Q 2, AILA Doc. No. 12011061, <http://www.aila.org/content/default.aspx?docid=38134> (emphasis added).

provided a receipt notice that serves as evidence that his/her conditional permanent resident status is extended for one year.

If the Form I-751 is still pending one year after filing, the ISO should collect the expired Form I-551 and issue a temporary I-551 stamp with a 12-month expiration date in the conditional resident's unexpired, foreign passport (if the expiration date of the passport is one year or more). If the conditional resident is not in possession of an unexpired foreign passport, the ISO should instead issue a Form I-94 (arrival portion) containing a temporary I-551 stamp with a 12-month expiration date and a photograph of the conditional resident.